

#5/jgd  
8/26/95IN THE UNITED STATES PATENT OFFICE

In re patent application

Serial No. 08/337,393  
Filed: November 8, 1994  
Inventor(s) JOSEPH MONTEITH  
Title: TANK INTERCEPTOR  
Examiner: CHRISTOPHER UPTON  
Group Art Unit: 1308

95 AUG 24 PM 8:42  
GROUP 130RESPONSE

The Commissioner of Patents

August 17, 1995

Washington, D.C. 20231

U.S.A.

Dear Sirs:

This is responsive to the office action dated June 27, 1995.

It is noted that the examiner has rejected claim 1 as being anticipated (35 U.S.C. 102(b)) or as being obvious (35 U.S.C. 103) over U.S. patent 3,374,874, Webster.

It is noted that the examiner regards the inner tubular member 21 of Webster as the equivalent of the "container" as recited in line 2 of claim 1 of the present application. However, it is pointed out that the container claimed in the present claim 1 must include a bottom wall, a side wall and a top wall, with the walls defining an internal chamber. This is clearly not the case for the tubular member 21 of Webster, which has an open bottom. Thus it is not possible to read claim 1 directly on the disclosure of Webster. We further submit that it is not possible to change the analysis to make the outside container 11 of Webster the equivalent of the "container" recited in line 2 of claim 1 of the present application. If this is done, then it can no longer be said that Webster anticipates the "partition" claimed in line 4 of the present claim 1, since the "chamber" defined in claim 1 (extending to the outer walls) is not divided by a "partition" as claimed.

It is noted that Webster shows a sloping diaphragm 24 which is perforated and which extends only within the tubular member 21. Webster further provides a vertical baffle plate

31 extending from the diaphragm 24 to the top of the unit. It is noted that the examiner has taken the position that Webster's diaphragm 24 is the equivalent of the horizontal portion claimed in the present claim 1, and further takes the position that the vertical baffle 31 of Webster is the equivalent of the "raised portion" on the top wall of the partition claimed in claim 1, which isolates the inlet from the outlet, so as to require a low-flow liquid to pass through the first and second openings.

This interpretative position taken by the examiner runs completely counter to the detailed disclosure of Webster. More specifically, in Webster's column 4, line 16 to line 22, Webster deliberately prevents (by means of the baffle plate 31) the very thing which the present applicant wishes to allow, namely a surge of water and/or oil to overflow the raised portion and pass directly to the outlet, without going through the lower chamber.

It is noted that the examiner has raised objections to the remaining claims in the application, all of which depend ultimately from claim 1. It is submitted that, if the examiner accepts the patentability of present claim 1, in light of the above arguments, then the remaining claims should also be regarded as patentable, because of their combination with allowable claim 1.

In view of the foregoing comments, further and favourable action on the merits of this case is believed in order.

Respectfully submitted,

SHOEMAKER AND MATTARE, LTD.

By: Charles F. Jones

Shoemaker and Mattare, Ltd.,  
Suite 1203 Crystal Plaza Building 1,  
2001 Jefferson Davis Highway,  
P.O. Box 2286,  
ARLINGTON, Virginia 22202-0286  
U.S.A.

(703) 415-0810